

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Mark Noble, et al.,

Plaintiffs,

vs.

**Civil Action 2:13-cv-366
Judge Michael H. Watson
Magistrate Judge King**

Worthington Industries, Inc.,

Defendant.

ORDER

The only claims remaining in this action are those originally asserted by Plaintiff Brad Smith, whose death was suggested on the record. Suggestion of Death, ECF No. 56. Boyd and Kathleen Smith, who have been identified as the successors of the deceased plaintiff, Suggestion of Death of Brad Smith, ECF No. 63, were served with process in accordance with Rule 25 of the Federal Rules of Civil Procedure. Status Report, ECF No. 66. On January 13, 2015, Boyd and Kathleen Smith were directed to file a motion for substitution as plaintiffs in this action by April 7, 2015 if they intended to pursue the claims of the deceased plaintiff. Order, ECF No. 67 (citing Fed. R. Civ. P. 25(a)(1)). They were specifically advised that their failure to do so would result in the dismissal of those claims and of this action. *Id.* Boyd and Kathleen Smith have not filed a

motion for substitution as plaintiffs. On April 8, 2015, the United States Magistrate Judge recommended that the claims of Brad Smith be dismissed and that final judgment be entered in this action. Report and Recommendation, ECF No. 68. Although the parties and Boyd and Kathleen Smith were advised of their right to object to that recommendation and of the consequences of their failure to do so, there has been no objection.

The Report and Recommendation, ECF No. 68, is **ADOPTED AND AFFIRMED.**

The claims of Brad Smith are dismissed. The Clerk is **DIRECTED** to enter **FINAL JUDGMENT** in this action.

The Clerk is **DIRECTED** to mail a copy of this Order to Boyd and Kathleen Smith at 237 S. Greenlawn Avenue, Lima, OH 45807.

IT IS SO ORDERED.



MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT